



Submission to the Select Committee on Temporary Migration on the impact temporary migration has on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions

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OVERVIEW

We welcome the opportunity to respond to the Select Committee on Temporary Migration to inquire into and report on the impact of temporary migration on the Australian economy, wages and jobs, social cohesion and workplace rights and conditions.

Our research demonstrates that temporary migration status has profound social and economic consequences for a growing group of workers in Australia. Restrictions accompanying temporary labour migration visa classes impose highly differentiated personal and workplace rights, with implications for workers' ability to: (1) reconcile work and family care responsibilities; and (2) achieve successful social inclusion.

Lack of appropriate policy support for temporary migrant workers and their family responsibilities will have serious consequences for workforce productivity, community and national social cohesion, and the personal wellbeing of temporary migrants and their families. Failure to adequately support temporary migrant workers will also have potentially negative social implications in the migrant workers' country of origin - particularly developing countries in our Asia-Pacific region. An expansion of temporary labour migration in the absence of adequate and appropriate policy development to support temporary worker's family responsibilities will negatively impact Australia's ability to meet our existing commitments to the United Nations Sustainable Development Goals and other relevant international conventions.

Our submission addresses the following terms of reference: (c) policy responses to challenges posed by temporary migration; and (d) whether permanent migration offers better long-term benefits for Australia's economy, Australian workers and social cohesion.

This submission draws on our collective academic expertise, including empirical research, policy analysis and extensive knowledge of the relevant international literature on temporary labour migration.

SUMMARY of RECOMMENDATIONS

- 1. Formal extension of all existing work/care reconciliation policies** and supports to temporary migrant workers with accompanying family;
- 2. Development of new policy settings** to support temporary labour migrants and their families for periods of separation; enhanced capacity and resourcing for a parent to make regular visits home; and support and resources to maintain child-parent relationships transnationally through specific workplace measures such as time to communicate and carers leave;
- 3. Policy update** of Australian social and employment policies to address the care needs and working conditions of temporary migrant workers, both domestically and in respect of their transnational family commitments. Failure to do so creates a risk that family and community care becomes a new locus of inequality and social exclusion. This would undermine worker productivity and reduce Australia's reputation as an attractive destination for skilled temporary migrant workers;
- 4. Resources for employers and civil society organisations** including recommendations on measures to best support temporary migrant workers with family care responsibilities; and
- 5. More evidence** on the impact of temporary migrant status on work/care reconciliation and how to best support the work/care reconciliation needs of temporary migrant workers to Australia (DIBP, 2016; McDonald, 2019). There is an urgent need to investigate the experiences and needs of migrant workers who have caring responsibilities for family members living outside Australia (transnational families) and those whose family members accompany them, in order to develop policies and practices to best support temporary migrant workers with family responsibilities and safeguard social inclusion, productivity and wellbeing in Australia.

INTRODUCTION

Australia has one of the largest temporary migrant workforces in the developed world (Daly 2019; OECD 2019). This has not always been the case. Since the mid-1990s, Australia's historical focus on permanent migration and family reunion has been replaced by an emphasis on temporary migration, both short and long-term, to meet skills gaps and labour shortages in the economy (Mares 2016). This policy shift has gained in momentum and scope, highlighted most explicitly in the introduction and rapid expansion of the Pacific Labour Scheme between 2018-19.

Australia has more than 10 temporary visa classes that confer work rights. This submission focuses on the Temporary Skills Shortage Visa (TSS) (subclass 482) and the Pacific Labour Scheme (PLS) (a stream of the Temporary Work [International Relations] visa, subclass 403), which are two of Australia's main temporary labour visas and the visa categories in which the authors have some expertise. Other temporary visa categories, such as international student and working holidaymaker visas, are not primarily labour visas but do include work rights and, while not the focus of this submission, they should be considered as part of this inquiry.

The TSS is for employment in what are classified as 'skilled' and professional occupations. It allows nuclear family to accompany the worker to Australia. The PLS is for employment in occupations classified as 'low/semi-skilled' and does not allow visa holders to bring their family with them to Australia. TSS visas can be held for 2-4 years and PLS visas are for up to 3 years. The PLS is available to citizens from nine Pacific island countries plus Timor-Leste, whereas the TSS is open to all, with the majority of visa holders coming from countries in the Asia-Pacific (DIBP 2016).

Supporting family care

Temporary migrants employed via TSS or PLS visa pathways have different types of access to family accompaniment and family reunion, and different levels of access to mainstream social policies and services that support parent/child care. This is on account of the specific conditions attached to the different visas and, in some cases, the length of time spent in the Australian labour force and the associated ability to meet eligibility tests for some work/care supports provided under the National Employment Standards (NES). As such, temporary migration status can have profound consequences for the ability of a growing group of workers in Australia to reconcile their work and family care responsibilities. Temporary worker status and associated conditions also limits their right to care for family and community, and be cared for, as stipulated in various international conventions and agreements including the 1989 UN Convention on the Rights of the Child (CRC), the 1981 ILO Convention on Workers with Family Responsibilities (C156), and the Sustainable Development Goals 2030.

Australia ratified the CRC in 1990, legally committing the government to consider the best interests of children who are directly or indirectly affected by government policies and actions. Temporary labour migration schemes are prominent examples of such policies and need to be considered in light of the CRC. A recent Joint General Comment by the CRC Committee and the UN Committee on Migrants Workers argued that, "In the context of international migration, children

may be in a situation of double vulnerability as children and as children affected by migration who ... remain in their country of origin while one or both parents have migrated to another country” (UN CMW and CRC Committees 2017). Primary caregivers, who are also often migrant workers, are fundamental to the realisation of children’s rights, as “these relationships offer children physical and emotional security, as well as consistent care and attention ... In these ways, parents (and other caregivers) are normally the major conduit through which young children are able to realise their rights” (UN CRC Committee 2006).

Discrete rights under the CRC include the rights of children: to be cared for by their own parents as far as possible (Article 7); to maintain direct and regular contact with their parents if separated (Article 10(2)); **and to have their parents assisted by the State in the performance of child-rearing responsibilities arising from their role as caregivers with the primary responsibility for their children’s upbringing and development (Article 18)**. These rights are embedded within a number of other international agreements and conventions including the 1981 ILO Convention on Workers with Family Responsibilities (C156), ratified by Australia in 1990. This convention explicitly recognises that workers have both employment and family responsibilities and calls upon members to “make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities” (Article 3) (ILO 1981). This convention demands policy settings include consideration of broad family care commitments including children and older family members.

An assumption underlying Australia’s shift to temporary migration is that temporary migration streams are ‘frictionless’, carefully designed to capture migrants with needed skills who will immediately find employment. This needs to be challenged. The idea that employment is enough to ensure a frictionless migration experience is seriously inadequate as a growing set of research is showing (Bryceson 2019; Caspersz, 2014; Favell, Feldblum, & Smith, 2007; Hawthorne, 2005; Syed, 2008). Instead many migrants face a number of related and often overlapping insecurities related to the labour market, employment, skill reproduction, income, and political representation. **In this submission we highlight the care insecurities that many temporary migrant workers face on entry to Australia.**

Our research demonstrates that temporary migrants face significant care insecurities. This includes the ability to care for loved ones left behind in the home country, the opportunity to be cared for by family and community, and the capacity to care for themselves. Often these care insecurities are unintended policy outcomes. Nevertheless, they have significant implications for worker productivity, wellbeing and social inclusion that could be improved through expanded policies for work/care reconciliation.

The ability to care for all family members is critical, but especially for children. While the absence of a care-giving parent due to labour migration places a fundamental constraint on the rights of the child, it is possible for governments to establish policies to support the parent-child relationship. This is easier where temporary migrant workers are accompanied by family. But policy support for work and care must extend beyond the parent-child relationship to include care responsibilities for all family members, particularly the frail, ill and aged.

It is well established in the empirical and policy evaluation literature that work/care reconciliation policies contribute to a productive and inclusive workforce, enhance employee well-being and retention, and boost gender equality in work and care (AHRC, 2013). Despite strong evidence of these positive social and economic impacts, access to work/care reconciliation policies is increasingly differentiated, not only according to workers' employment status and sector (Heron et al, 2017) but also migration status (Boucher 2017). Existing research shows that temporary migrant workers and their families are currently invisible in policy and political debates about work/care reconciliation and 'family-friendly' workplaces (Hill et al 2018; Hamilton et al 2018; Hamilton et al 2019a). For example, temporary migrants have limited access to key family benefits such as Commonwealth childcare subsidies, paid parental leave, and limited access to social rights such as income support and health care. Other policies, such as government-mandated carers leave, do not meet the needs of migrants with transnational care responsibilities.

In order to develop work/care policy settings appropriate for the diversity of temporary labour migrants and their family arrangements we need to better understand:

- How temporary migration, employment and social policy settings in Australia interact to shape temporary migrant workers' rights at work, opportunities to care for family, and their productivity and social inclusion over time.
- How temporary migrant workers in Australia negotiate family care and support over time, and their challenges and opportunities in negotiating equitable family care arrangements.

The questions are the focus of an Australian Research Council Discovery Project Application by the authors of this submission (DP210100190), currently under review.

Given current research evidence, we recommend that support for the parent-child relationship and broader family care responsibilities would be most easily achieved through:

1. Formal extension of all existing work/care reconciliation policies and supports to temporary migrant workers with accompanying family.
2. Development of new policy settings to support temporary labour migrants and their families for periods of separation; enhanced capacity and resourcing for a parent to make regular visits home; and support and resources to maintain child-parent relationships transnationally through specific workplace measures such as time to communicate and carers leave (Jayasuriya 2018, Jayasuriya & Opekin 2015).¹

The increasing reliance on temporary labour migrants represents a structural shift in Australia's approach to labour market supply and economic security that must be reflected in the work/care policies for a productive and inclusive workforce. In addition, the use of temporary labour programs by government as tools of economic diplomacy, international development and geopolitics consolidates the moral imperative that temporary labour migrants and their families

¹ This discussion is drawn from Hill et al 2018

be included in work/care policy developments. Policies that extend standard work/care reconciliation policies to temporary migrants will support the Australian Government and employers to develop policies for work and care that promote social cohesion, productivity, wellbeing and gender equality.

Transnational families and social policy for work/care reconciliation

The international transnational family and care chains literature shows clearly that issues around the 'portability of care' are critical to the ability of temporary migrants to reconcile their work/care responsibilities (Baldassar, 2016). The portability of care relies on access to mobility (to enable migrants to visit home and for their family members to visit them) and access to technology (to remain connected across distance). These requirements have implications for both national and transnational social policy regarding access to mobility as well as access to the internet and the communication technologies needed to be able to stay in touch across distance. Because of the current way migration policy is formulated, these issues of care portability are not taken into account in the development of temporary migration programs, and access to mobility, in particular, is often restricted with unintended consequences on care needs and obligations.

The transnational migration literature highlights two care crisis moments of particular relevance to this parliamentary inquiry and the unintended consequences of temporary migration schemes: birth and looking after young children, and ageing and looking after the elderly. These care needs are universal and are much the same whether you are a temporary migrant or not. Everyone needs care support when they are young or looking after young children or when they are elderly or looking after elderly (see Brijnath, 2009). The persistent lack of affordable and appropriate childcare in Australia affects temporary migrants in very specific ways. Childcare fees are expensive and appropriate care options are often difficult to access for migrant families. In this context, policy and public discourses are increasingly identifying migrants such as au pairs (usually on working holiday visas) as new sources of affordable and flexible childcare (Hamilton et al, under review, b). The highly exploitative conditions attached to these forms of temporary migrant work has, to date, received scant public attention (Berg & Meagher 2018). In our research on migrant households, the lack of suitable childcare is often filled informally by 'flying grandmothers' or migrant grandparents (on visitor, sponsored parent visa and permanent visas) (Baldassar and Wilding 2014; Hamilton et al, under review, b). Migrant grandparent care provides opportunities for migrant families to build and nurture intergenerational relationships. However the formal visa conditions that support grandparent care for grandchildren, and their adult children, often create and embed new forms of care and economic insecurity for migrant grandparents who use temporary migrant visas (such as the Sponsored Parent (Temporary) visa (subclass 870) introduced in 2019) (Hamilton et al 2018; Hamilton et al under review b, and forthcoming a).

Taking an ethical approach to this problem, we argue that countries that employ temporary migrant workers have a responsibility to admit the family who care for and are cared for by that worker (whether children or disabled or elderly) or to provide the conditions that make meeting these care needs and obligations possible. This approach builds on Graeme Hugo's important

contribution to development-migration policy that argued that the impact of migration-led development on the sending country should be factored into national immigration agendas (2009). In a migration policy governed by an ethic of care, the impact on family members (in both sending and receiving countries) as well as on the migrant, will be central (Tronto 2005).

To support this approach there are some important *transnational* social policies that could facilitate the work and care needs of temporary migrants and their families. For example,

- Migration and social policy that acknowledges and accommodates care needs and obligations, including extended carer leave incorporating overseas travel;
- Bilateral agreements that support mobility rights (visas, employment, carers leave);
- Bilateral agreements that support access to health care;
- Policies to support access to reliable Information and communication technologies.

RECOMMENDATIONS

Where labour migration stretches work across time and distance, workers require access to policy settings for work and care reconciliation that support family life. In doing so worker productivity and social inclusion will be enhanced. Guided by international conventions and agreements, alongside an emerging research evidence on the work and care needs and practices of temporary labour migrants, this submission argues the Australian government must investigate appropriate policy settings for the work/care reconciliation of the growing temporary migrant workforce. This is a matter of equity, productivity and social inclusion. We recommend the following:

- 1. Formal extension of all existing work/care reconciliation policies** and supports to temporary migrant workers with accompanying family;
- 2. Development of new policy settings** to support temporary labour migrants and their families for periods of separation; enhanced capacity and resourcing for a parent to make regular visits home; and support and resources to maintain child-parent relationships transnationally through specific workplace measures such as time to communicate and carers leave;
- 3. Policy update** of Australian social and employment policies to address the care needs and working conditions of temporary migrant workers, both domestically and in respect of their transnational family commitments. Failure to do so creates a risk that family and community care becomes a new locus of inequality and social exclusion. This would undermine worker productivity and reduce Australia's reputation as an attractive destination for skilled temporary migrant workers;
- 4. Resources for employers and civil society organisations** including recommendations on measures to best support temporary migrant workers with family care responsibilities; and

- 5. More evidence** on the impact of temporary migrant status on work/care reconciliation and how to best support the work/care reconciliation needs of temporary migrant workers to Australia (DIBP, 2016; McDonald, 2019). There is an urgent need to investigate the experiences and needs of migrant workers who have caring responsibilities for family members living outside Australia (transnational families) and those whose family members accompany them, in order to develop policies and practices to best support temporary migrant workers with family responsibilities and safeguard social inclusion, productivity and wellbeing in Australia.

Implementation of these recommendations will:

- support a productive and inclusive workforce that will position Australia as an attractive destination for skilled temporary migrant workers and improve productivity, social inclusion and sustainable economic growth;
- support the aim of the Australian government to deliver temporary labour programs that deliver regional development, gender equality and wellbeing;
- support Australia to meet international obligations prescribed under conventions such as the Convention on the Rights of the Child, and other relevant International Labour Standards on Migrant workers; and
- support the Australian government efforts to meet the global Sustainable Development Goals. Extending work/care reconciliation policies to temporary migrant workers work/care policies for temporary migrant workers and their families will support SDG 5 on Gender Equality, SDG 10 on Reduced Inequalities and SDG 8 on Decent Work and Economic Growth.

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